

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

CHARLOTTE AND PATRICK BEATTY, obo
AB,

Charging Party,

-v-

CLARK FORK SCHOOL,
Respondent.

Case # 0114015118 and 0114015120

ORDER
FINAL AGENCY DECISION

Charging Party, Charlotte and Patrick Beatty (Beatty), filed a complaint with the Department of Labor and Industry (Department) on behalf of their child, AB, alleging discrimination in education on the basis of disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Beatty's allegations that Respondent, Clark Fork School, discriminated against AB. The Department issued a Notice of Dismissal. Beatty filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 28, 2012. Elizabeth O'Halloran appeared and argued on behalf of Beatty. David Berkoff appeared and argued on behalf of Clark Fork School.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, and seek appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Sections 2-4-702 and 49-2-511(3)(b), MCA*. This review must be requested within 30 days of the date of this order.

IT IS HEREBY ORDERED, that Beatty's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Clark Fork School.

DATED this 23rd day of July 2012.

_____/l.m.minich/_____
L.M. Minich, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 23rd day of July 2012.

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Annah Smith, Legal Secretary
Montana Human Rights Bureau